UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 09-04

Paper No: __

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SEP 3 0 2004

OFFICE OF PETITIONS

In re Application of
Chaum   :
Application No. 09/771,537   :   DECISION ON PETITION
Filing Date: 29 January, 2001
Attorney Docket No. (None)   :

This is a decision on the petition filed on 12 May, 2001, and considered under 37 C.F.R. §1.53, to obtain a filing date of 29 January, 2001, for Fig. 10 as described in the specification.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

NOTE: Petitioner is respectfully requested to place the Application Serial
           Number, Filing Date, Inventor Name, Examiner Name and Art
           Unit atop each paper filed in this matter.

BACKGROUND

This nonprovisional application was deposited on 29 January, 2001

On 16 April, 2001, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," (the 16 April Notice) and indicated that, while a filing date had been granted, it appeared that Fig. 10 as described in the specification was omitted from the application.

The 16 April Notice informed Petitioner of three alternative responses to the Notice: (a) to contend that the materials had been submitted, providing evidence thereof and a copy of the materials; (b) to submit the omitted materials and accept the date of submission as the date of the application; or (c) to ignore the 16 April Notice and accept the application as filed.

Petitioner actually elected to do none of the above, in that while he has submitted the petition and fee he has submitted no evidence of deposit of the Fig. 10 on filing.

Petitioner:

- filed the instant petition on 12 May, 2001; and

- alleged that the instant application incorporated by reference the parent such that the presence of the drawing in the parent with the incorporation by reference results in there being no new matter if Fig. 10 as described in the specification is included in the instant application.

Petitioner may wish simply to file an amendment including the omitted Fig. 10 and seek entry by the Examiner should the Examiner conclude that because of the prior incorporation by reference the inclusion of Fig. 10 as described in the specification presents no new matter.

Alternatively, when making such an of incorporation by reference, it is proper to provide a copy of the parent application as filed. Should Petitioner wish to proceed accordingly with the instant matter, Petitioner should submit a complete copy of the parent application as filed, a copy of the receipt card and a renewed petition. Petitioner should file these materials within two months of the date of this decision.

Alternatively, Petitioner had indicated in the petition that he intended to submit a copy of the receipt card from the application. This he has failed to do. (The copies of receipt cards were for applications other than the instant application.) Petitioner may submit a copy of the receipt card with the renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)[1]
             Commissioner for Patents
             P.O. Box 1450
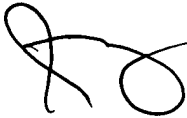   Alexandria, VA 22313-1450

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[1] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(703) 872-9306
(Effective 28 September, 2004: (571-273-0025)
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA   22202

This file (Image File Wrapper (IFW) is released to OIPE for further processing consistent with this decision before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions